

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4022 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHERUSINH JUNGALSINH PARMAR

Versus

DISTRICT MAGISTRATE

Appearance:

MR ANIL S DAVE for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 4.5.1996 passed by the District Magistrate, Panchmahals, whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985. The detention order was executed on 7.6.1996 and since then the petitioner is under detention lodged at Junagadh Jail, Junagadh.

This Special Civil Application was filed on 13.6.1996 and on 17.6.1996 rule returnable for 9.7.1996 was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that three criminal cases were registered against the petitioner for offences under Chapter XVI and XVII. Besides this, the detaining authority has found that the petitioner is engaged in the activities of dadagiri, has been threatening the people, attacking the people with deadly arms, giving them public beating. He has been found to be a dangerous person and has been detained as such.

Mr. Dave, learned counsel, has submitted that the last offence registered against the petitioner is of 5.12.1995 whereas the detention order has been passed on 4.5.1996. Besides this, the copies of the bail application and the bail orders are not supplied to the petitioner with regard to C.R. No. 123 of 1995 which is pending in the court.

Whereas the factual position with regard to the intervening period between the date of last offence and the date of passing of the order i.e. a period of five months has not been explained and it has been admitted that copy of the bail application and bail orders with regard to C.R. No. 123 of 1995 has not been supplied to the petitioner along with the grounds of detention. It is therefore clear that the petitioner's right under Article 22(5) of the Constitution for making an effective representation has been infringed. The detention order therefore deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 4.5.1996 passed by the District Magistrate, Panchmahals, Godhra is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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